

The Tennessee Jury Verdict Reporter

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June 2011

Statewide Jury Verdict Coverage

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Civil Jury Verdicts

Timely coverage of civil jury verdicts in Tennessee including court, division, presiding judge, parties, case number, attorneys and results.

Premises Liability - A mall employee (a clerk at a shoe store) slipped on a wet floor and suffered a complex knee injury – while the plaintiff prevailed at trial and took a substantial sum of economic damages, the jury rejected any award of the non-economic variety

Webber v. Opry Mills, 08-3639

Plaintiff: James S. MacDonald, *Dunn*

MacDonald & Reynolds, Knoxville

Defense: Steven D. Parman, *Watkins & McNeilly*, Nashville

Verdict: \$233,000 for plaintiff less 40% comparative fault

Court: **Davidson**

Judge: Amanda McClendon

Date: 3-9-11

Ashley Webber worked as a store clerk at the Nine West shoe store within the Opry Mills Mall. She took a fifteen minute break on 11-5-07 and went for a walk near the mall's food court. As she traversed the mall, Webber slipped on a wet floor.

In the process of falling, she sustained a complex and serious knee injury. Webber dislocated her knee and tore her ACL, PCL and MCL. The knee was surgically repaired, but the once active Webber continues to complain of pain and limitations.

In this lawsuit, Webber sued the mall and alleged negligence by it regarding the wet floor. She cited proof that just before her fall, mall employees had been mopping the floor – however, they did not place cones or warning signs.

Then when Webber traversed the area, it was reasonable for her to not appreciate the floor was wet as the surface had a high gloss and was shiny. Her wage loss was discussed by a vocational expert, Bentley Hankins. [Bentley is the son of the long-time Jonesborough vocational expert, Norman Hankins.] Opry Mills's defense of the

case did two things, (1) it minimized damages, and (2) implicated the plaintiff's own failure to keep a proper look-out.

The jury's verdict was mixed on fault. It was assessed 60% to Opry Mills, the remainder to Webber. Then to damages, she took medicals of \$45,000 plus \$55,000 more for future care. Her lost wages were \$33,000, while future lost earnings were \$100,000. Interestingly, the jury rejected any award for non-economic damages, writing "zero" for pain and suffering, loss of ability to enjoy life and permanent injury.

The raw verdict totaled \$233,000 and was reduced to \$139,800 in the court's consistent judgment. There were no post-trial motions and the judgment has been satisfied

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